

# **Exhibit A**

**McTigue & Porter LLP** represents participants in traditional pension plans, 401(k) salary deferral plans, savings plans, and Employee Stock Ownership Plans (ESOPs). The firm confines itself to the

litigation of complex class actions. The typical action alleges violations of federal pension law, known as ERISA. The emphasis is on representing and protecting employees in pension plans when the plans have lost a significant part of the plan's assets because the plan's employer-fiduciaries and trustees, entrusted with management of the plan, failed to live up to their obligations under applicable law.

## **McTIGUE & PORTER LLP**

5301 Wisconsin Avenue, NW  
Suite 350  
Washington, D.C. 20015

We were probably the first law firm, years before the Enron, Worldcom, and Global Crossing scandals, to recognize the need for lawyers to protect baby boom generation employees against the growing risks of imprudently-invested 401(k) and Employee Stock Ownership Plans. These plans are allowed by federal law to invest 100% of their assets in the company that sponsors the 401(k) Plan. By contrast, federal pension law prevents the older style, defined benefit pension plans, typical for the post-World War II unionized workforce, from investing more than 10% of their assets in the company that sponsors the plan. The risk to 401(k)-type plan participants is magnified because the federal Pension Benefit Guarantee Corporation (PBGC) insures older style pension plans, but does not insure 401(k)s and ESOPs. Because of its exposure to losses, the threat of PBGC litigation serves as a deterrent to poor investment by older-style plans. There is no such deterrent to imprudent investment by sponsors of 401(k) and similar plans. By the early 1990s, the value of assets in 401(k) and similar plans had eclipsed the value of assets in the traditional pension plans.

Representative cases include:

- *Presley v. CHH, et al.*, 97-cv-04316 (SC) (N.D. California). CHH, was the Los Angeles holding company for the Broadway, Emporium, Capwells, and Weinstocks department stores, with more than 24,000 employees in its 401(k) plan. More than half of the plan's assets were invested in CHH stock when the chain filed for bankruptcy. Nearly \$39 million was recovered for the plan from defendants.
- *Blyler v. Agee, et al*, CV97-0332-(BLW) (D. Idaho). This litigation involved pension plans with 8,000 employees sponsored by Morrison Knudsen Corporation which declared bankruptcy in 1996.
- *Koch v. Dwyer, et al.*, 98-cv-5519 (RPP) (S.D. New York). This litigation involved JWP, Inc., a S&P 500 company that declared bankruptcy. A \$6.4 million settlement was reached in 2002 on behalf of JWP's pension plan.
- *In re CMS Energy ERISA Litigation*, 02-cv-72834 (GCS) (E.D. Michigan.). This litigation, on behalf of more than 10,000 pension plan participants, involves a former Detroit based utility. A \$28 million settlement was reached in .

<b>McTIGUE &amp; PORTER LLP</b>
---------------------------------

- *In Re Computer Associates ERISA Litigation, CV-02-6281 (TCP) (E.D. New York). Class action on behalf of Computer Associates 401(k) plan after Computer Associates revealed questionable accounting.*
- *In Re McKesson HBOC, Inc. ERISA Litigation, C 00-20030 (RMW) (N.D. Calif.). Plan with 8,000 participants, \$23 million settlement.*
- *Sherrill v. Federal Mogul Corp. Retirement Programs Committee, et al 04072949 (E.D. Michigan). Plan with 12,000 participants. \$12.75 million settlement.*

Combined, the plans of the defendant corporations in the above actions cover more than 70,000 employees. To date, the firm has recovered more than \$119 million on behalf of tens of thousands of pension, 401(k) and ESOP participants. Many lawsuits involved allegations of fiduciary breaches with respect to a pension plan sponsored by a S&P 500 or similar company.

The firm currently litigates other cases throughout the United States on behalf of thousands of other pension plan participants, in both public and private sector plans, who have lost retirement assets due to a trustee's or fiduciary's breach of fiduciary duty.

The Defendants in these cases include some of the nation's larger banks and mutual funds as well as prominent individuals in the financial, corporate, and political world who have served as fiduciaries of the plans. The lawsuits allege a variety of federal pension law violations, including that fiduciaries of these plans failed to perform their fiduciary duties to the funds and their pension plan members as required by federal law, participated in breaches of fiduciary duty, including co-fiduciary breaches, and engaged in prohibited transactions, or conflicts of interest, under federal pension law.

The events of late 2001 and the first half of 2002, including the financial collapse and bankruptcy filings by the ENRON, WorldCom and Global Crossing confirm the risks that participants in defined contribution pension plans are exposed to because of large portfolios of Company Stock.

The nature of the risk to 401(k) plan participants was brought to the attention of the United States Department of Labor in 1997 by Mr. McTigue when he was invited to testify before the Department's pension fund Advisory Council.

Principal attorneys are:

J. Brian McTigue

Prior to private practice, Mr. McTigue was counsel to committees of the United States House of Representatives and Senate. His legislative work included investigations and legislation pertaining to federal pension law and pension fund investment.

**MCTIGUE & PORTER LLP**

As a Senate Legal Counsel for Special Projects, Mr. McTigue was responsible for initiating the first legislative proposal, in 1996, to reduce the percentage of Company Stock permitted in the portfolios of 401(k) and similar defined contribution pension plans. The bill represented the first congressional recognition of problems with the typical pension plan of the baby boom generation. Although opposed by many employers and employer groups, several of the concepts embodied in the bill became law. Mr. McTigue has since assisted congressional offices with draft legislation which would give ERISA fiduciary breach claims greater protection when companies sponsoring plans file for bankruptcy.

Mr. McTigue's congressional investigation of Michael Milken, Drexel Burham Lambert and the junk bond market was a basis for *FDIC v. Milken, et al.* brought by the Federal Deposit Insurance Corporation which settled for \$1.3 billion. His congressional investigations of the funding of pension plans through annuities issued by the California-based Executive Life Insurance Company identified issues giving rise, when Executive Life became insolvent several years later, to a plethora private class actions and United States Department of Labor litigation alleging violations of federal pension law, the Labor Department's adoption of new fiduciary standards for pension plan termination annuities, and to the passage of the Pension Annuitants Protection Act.

Prior to his legislative work, Mr. McTigue was an investigative reporter and television news producer for ABC and NBC News. His investigative reporting was awarded Emmys and a George Polk Award. Mr. McTigue is a graduate of Notre Dame and the Golden Gate University Law School, San Francisco, California. Mr. McTigue is a member of the District of Columbia Bar and the State Bar of California. He is also a member of the Bars of the United States District Courts for the District of Columbia, Northern District of California, and the Eastern District of Michigan. Mr. McTigue is from Fort Dodge, Iowa.

Patrick P. de Gravelles

Patrick P. de Gravelles is an experienced litigator with a background in both civil and criminal matters. He has litigated shareholder and ERISA class actions involving large corporations, including suits stemming from the collapse of Enron, and currently focuses on complex ERISA actions brought by participants in corporate pension and retirement plans.

Before joining McTigue & Porter, Mr. de Gravelles was involved in criminal defense matters and complex civil litigation, including federal probes into the issuance of gaming licenses in Louisiana, state criminal charges against a federal law enforcement officer, and alleged violations of a U.S. trade embargo. His practice also involved government contracts disputes, legal malpractice cases, litigation involving the commercial student loan industry, insurance coverage disputes, and commercial real estate litigation.

Mr. de Gravelles has worked on a variety of *pro bono* projects, including those involving political asylum applications, employment discrimination actions, and child

custody disputes. In 1997, he received the Wiley W. Manuel Award for *Pro Bono* Services, which is awarded by the Board of Governors for the State Bar of California. In May 2000, he received an Outstanding Achievement Award by the D.C. Chapter of the Lawyers Committee for Civil Rights and Urban Affairs. In 2001, the District of Columbia Bar named him Pro Bono Lawyer of the Year.

**McTIGUE & PORTER LLP**

Mr. de Gravelles attended the University of California at Los Angeles School of Law, where he founded the Criminal Law Society. He is a member of Phi Beta Kappa. Prior to law school, Mr. de Gravelles spent more than four years as a special agent with the U.S. State Department. He graduated, *magna cum laude*, from Georgetown University.

Gregory Y. Porter

Mr. Porter has extensive experience litigating complex pension, consumer fraud, insurance sales, and RICO class actions in federal and state courts throughout the United States. Since joining McTigue & Porter LLP, Mr. Porter has represented pension plan participants in several complex ERISA actions, including *In re CMS Energy ERISA Litigation*, 02-cv-72834 (GCS) (E.D. Mich.) and *Sherrill v. Federal Mogul Programs Retirement Plan Committee*, 04-cv-72949-AC (E.D. Mich.).

Prior to joining McTigue & Porter LLP, Mr. Porter practiced at the Washington, D.C., office of O'Melveny & Myers LLP, a premier class action and ERISA litigation defense firm. Mr. Porter's practice at O'Melveny consisted primarily of representing Fortune 500 companies in complex employee benefits class actions under ERISA. He has represented defendants in several cases alleging that the pension plan fiduciaries breached their duties of loyalty and prudence to the plan with respect to the plan's investments in employer stock, including: *Koch v. Dwyer*, No. 98-CV-5519 (RPP) (S.D.N.Y.); *Tittle v. Enron*, No. 01-CV-3913 (MH) (S.D. Tex.); *Rankin v. Rots*, No. 02-CV-71045 (AC) (E.D. Mich.); *Blyler v. Agee*, No. CV 97-332 (BLW) (D. Ida.). Other representative ERISA cases include *Kifafi v. Hilton Hotels Retirement Plan*, No. 98-1517 (D.D.C.), a case involving benefit-accruals and alleged back-loading in a defined benefit plan, and *Dupree v. The Prudential Ins. Co. Of Am., Inc.*, No. 99-8337 (S.D. Fla.), a case involving allegations that the plan sponsor charged the plan excessive fees for managing plan assets.

Mr. Porter has also worked on other complex class actions. Mr. Porter represented The Prudential Insurance Company of America in *In re The Prudential Insurance Company of America Sales Practices Litig.*, No. 95-CV-4704 (D.N.J.), one of the most complex insurance sales class actions ever litigated in United States Courts. He represented Humana Inc. in *In re Managed Care Litig.*, MDL 1334-MD (S.D. Fla.), a complex RICO class action pitting America's physicians against several large health insurance companies.

Mr. Porter is a member of the Employee Benefits Committee of the American Bar Association's Labor and Employment Law Section, speaks at the committee's annual meeting, and contributes to the annual supplement to the committee's respected treatise, *Employee Benefits Law*. Mr. Porter graduated from the University of Southern California Law School in 1996 where he was an editor of the Southern California Law Review and received the Order of the Coif. Mr Porter was raised in Berkeley, California, and Amherst, Massachusetts.

**McTIGUE & PORTER LLP**

Jennifer Hope Strouf

Jennifer Strouf joined the firm in June of 2006 after receiving a Masters Degree in Employee Benefits from the John Marshall Law School in Chicago, Illinois. She brings considerable courtroom experience to her knowledge of benefits law, having tried more than 50 cases during three years as an attorney in the Public Defender's Office of the Fifth Judicial Circuit of Florida.

Since coming to McTigue & Porter, Ms. Strouf has worked on complex class actions involving both public and private pension plans, including *Sherrill v. Federal Mogul Corp. Retirement Programs Committee, et al 04072949 (E.D. Michigan)*.

A graduate of the University of South Florida and the Stetson University School of Law, Ms. Strouf is a member of both the Florida and Illinois Bars. She currently serves as Vice-Chair of the Florida Bar's Student Education and Admissions to the Bar Committee and is a member of the Labor and Employment Law Section of the Florida Bar.

\* \* \*